

**CALIFORNIA COASTAL COMMISSION**

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Filed:	May 22, 2000
49 <sup>th</sup> Day:	July 10, 2000
180 <sup>th</sup> Day:	November 18, 2000
Staff:	ALK/LB
Staff Report:	September 21, 2000
Hearing Date:	October 10-13, 2000
Commission Action:	

**Item Wed 13d****STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-00-141

**APPLICANTS:** Frank & Gloria Montesinos

**PROJECT LOCATION:** 117 Santa Ana Lane, San Clemente, Orange County

**PROJECT DESCRIPTION:** Demolition of a 500 square foot, one-story residential structure and construction of a new 4651 square foot, split-level, three to four-story, 44' high (maximum height from centerline of frontage road), 2-unit condominium complex with two 2-car attached garages.

Lot Area:	5735 sq. ft.
Building Coverage:	1824 sq. ft.
Pavement Coverage:	2765 sq. ft.
Landscape Coverage:	920 sq. ft.
Parking Spaces:	Four (4)
Land Use Designation:	Residential High Density
Ht. above centerline of Monterey Lane:	34'
Ht. above centerline of Santa Ana Lane:	44'
Avg. max. height above finished grade:	36' 6"

**LOCAL APPROVALS RECEIVED:**

Approval-in-Concept from the Department of Community Development of the City of San Clemente and Approval of Cultural Heritage Permit 99-114 from the Planning Commission of the City of San Clemente.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicant proposes to demolish an existing structure and construct a new 44' high (from centerline of Santa Ana Lane) 2-unit condominium in the Pier Bowl district of the City of San Clemente. The major issue of this staff report is community character and cumulative effects on public coastal views. As proposed, the project will be inconsistent with the height of surrounding development.

Staff recommends that the Commission **APPROVE** the proposed development with two (2) special conditions. Special Condition No. 1 requires the applicant to submit revised project plans which show the height of the structure not to exceed a maximum height of 30' 6" above the centerline of Santa Ana Lane. Special Condition No. 2 requires the recordation of a deed restriction prohibiting future height increases.

**SUBSTANTIVE FILE DOCUMENTS:**

City of San Clemente Certified Land Use Plan, City of San Clemente Pier Bowl Specific Plan and Coastal Development Permits 5-00-111 (Ballard); P-2-28-77-312 (Schroeder), P-5-13-77-920 (Ratkelis), P-7-11-77-1324 (Easton), P-7-28-77-1482 (Glover), P-12-2-77-2353 (Hartfield); and P-80-7017 (Rampart Research and Financial).

**LIST OF EXHIBITS:**

1. Vicinity Map
2. Assessor's Parcel Map
3. Pier Bowl Boundary Map
4. Project Plans
5. Location of Previously-Issued CDPs in Pier Bowl District
6. Copies of Previously-Issued CDPs in Pier Bowl District
7. Staff Field Survey—Number of Stories
8. Objection Letters Received
9. Pier Bowl Specific Plan View Corridor Exhibit
10. Photos of Surrounding Development

**STAFF RECOMMENDATION:**

The staff recommends that the Commission **APPROVE** the permit with special conditions.

**MOTION:**

***I move that the Commission approve Coastal Development Permit No. 5-00-141 pursuant to the staff recommendation.***

Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**I. APPROVAL WITH CONDITIONS**

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

## **II. STANDARD CONDITIONS**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. SPECIAL CONDITIONS**

### **1. Final Project Plans**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, two (2) full sets of final project plans approved in concept by the City of San Clemente which demonstrate that the structure approved by Coastal Development Permit No. 5-00-141 does not exceed a maximum height of 30' 6" above the centerline of Santa Ana Lane.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### **2. Future Development Deed Restriction**

- A. By acceptance of this permit, the applicant hereby acknowledges that the height of the structure approved by Coastal Development Permit No. 5-00-141 for development at 117 Santa Ana Lane in the City of San Clemente shall not exceed a maximum height of 30' 6" above the centerline of Santa Ana Lane.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development

within the parcel. The deed restriction shall include a legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## **II. Findings and Declarations**

The Commission hereby finds and declares:

### **A. Project Location, Description and Background**

#### Project Location

The subject site is located at 117 Santa Ana Lane in the Pier Bowl area of the City of San Clemente (Exhibits 1 & 2). The subject site is a corner lot with frontage on Monterey Lane to the east and Santa Ana Lane to the southwest. The site is located within the Residential High (RH) density zoning designation, approximately one-quarter mile from the shoreline. The nearest public coastal access is provided at the entrance to the San Clemente Municipal Pier.

The Pier Bowl is a mixed-use district adjacent to the Municipal Pier, which serves as the central focal point of the City (Exhibit 3). The area includes commercial, visitor-serving and residential development. As described in the Pier Bowl Specific Plan, the topography of the subject area gently slopes seaward, forming a “*natural amphitheater to the ocean.*”

#### Project Description

The applicant is proposing the demolition of a 500 square foot, one-story residential structure and construction of a new 4651 square foot, split-level, three to four-story, 44' high (maximum height from centerline of frontage road), 2-unit condominium complex with two 2-car attached garages (Exhibit 4). One garage will take access from Monterey Lane, while the other garage will take access from Santa Ana Lane. The project also involves approximately 370 cubic yards of cut for site preparation. Excess material will be disposed of at the Prima Deshecha Landfill.

#### City Approval of Project

On November 3, 1999, the City of San Clemente Planning Commission approved Cultural Heritage Permit 99-114 for construction of the proposed duplex. The Cultural Heritage Permit was necessary due to the existence of a designated historic structure next door to the subject site.

#### Prior Commission Actions in Subject Area

The majority of existing development within the subject area appears to be pre-coastal (constructed prior to the passage of the Coastal Act). However, Commission staff has identified seven (7) Commission approvals determined to be applicable to the currently proposed development. These are residential projects either conditioned to maintain a specific height limit or were proposed at the height specified below. Of the structures in the immediate vicinity of the proposed duplex, all have been limited to a height of 30' 6" or less from the centerline of the frontage road. Exhibit 5 graphically depicts the location of each prior Commission action.

#### CDP 5-00-111 (Ballard)

On June 14, 2000, the Commission heard and continued application number 5-00-111 (Ballard) so that the applicant and staff could resolve outstanding issues regarding the

height of a proposed duplex at 108 Capistrano Lane. On August 10, 2000, the Commission approved the project with two special conditions limiting the maximum building height and requiring the recordation of a future improvement deed restriction to maintain that height (Exhibit 6a). Special Condition No. 1 required the height of the proposed structure to be limited to **20' above the centerline of the frontage road (Capistrano Lane)**, thereby maintaining consistency with the Commission's prior approval at the lot next door (Schroeder, discussed below). Special Condition No. 2 required the applicants to record a deed restriction which notifies the applicants and any future landowners that the structure approved by CDP 5-00-111 shall not exceed a maximum height of 20' above the centerline of Capistrano Lane. The Ballard site is located four lots north of the subject site, across Capistrano Lane.

P-5-13-77-920 (Ratkelis)

On August 11, 1977, the Commission approved CDP No. P-5-13-77-920 (Ratkelis) for the construction of a 3-level duplex with four-car subterranean level garage, conditioned not to exceed **30' 6" above the centerline of Santa Ana Lane** at 117 Capistrano Lane (Exhibit 6b). This structure is located directly adjacent to the subject site, at the corner of Capistrano Lane and Santa Ana Lane.

P-2-28-77-312 (Schroeder)

On April 4, 1977, the Commission approved P-2-28-77-312 (Schroeder) for the construction of a four-story duplex, conditioned not to exceed **20' from the centerline of the frontage road (Capistrano Lane)** at 110 Capistrano Lane (Exhibit 6c). The Schroeder residence is located three lots north of the subject site, across Capistrano Lane.

P-7-11-77-1324 (Easton)

On August 11, 1977, the Commission approved CDP No. P-7-11-77-1324 (Easton), which allowed the construction of a four-story duplex, conditioned not to exceed **36' above the centerline of Alameda** and **23' 6" above the centerline of Santa Ana Lane** at 122 Santa Ana Lane (Exhibit 6d). This structure is located across the street from the subject site, at the intersection of Santa Ana Lane, Monterey Lane and S. Alameda Lane.

P-7-28-77-1482 (Glover)

On August 25, 1977, the Commission approved CDP No. P-7-28-77-1482 (Glover) for the construction of a three-story, four-unit apartment building with subterranean garage for eight cars, proposed at **28' 4" above the centerline of the frontage road** at 511 Avenida Del Mar (Exhibit 6e). This structure is located two lots north of the subject site, at the intersection of Avenida Del Mar, Capistrano Lane and Santa Ana Lane.

P-12-2-77-2353 (Hartfield)

On January 9, 1978, the Commission approved CDP No. P-12-2-77-2353 (Hartfield), which allowed the construction of a 3-story (over garage level) triplex, conditioned not to exceed **26' above average finished grade** and **36' above the centerline** of the frontage road at 123 Coronado Lane (Exhibit 6f). This structure is located two blocks west of the subject site, at the intersection of Monterey Lane, S. Alameda Lane and Coronado Lane.

P-80-7017 (Rampart Research and Financial)

On August 11, 1980, the Commission approved CDP P-80-7017 (Rampart Research and Financial) for the demolition of a single-family dwelling and construction of a new three-story, five-unit condominium proposed at **25' above average finished grade and 32' above the centerline of the frontage road** at 103 Coronado Lane (Exhibit 6g). This structure is located one block west and eight lots north of the subject site, at the intersection of Avenida Del Mar, S. Alameda Lane and Coronado Lane.

Field Survey Results

The majority of residential development in the surrounding area is made up of split level duplexes and apartments on sloping lots. Building heights vary from structure to structure and block to block. Exhibit 7 shows the results of a Commission staff field survey documenting the number of stories of each existing structure.

Public Comment

Five (5) letters of opposition to the proposed project have been received to date (Exhibit 8). The opponents express concern over the height of the proposed structure as it relates to community character and the adjacent historic structure. Many have requested the height of the proposed duplex be restricted to the height of surrounding development.

**B. Standard of Review**

The Commission certified the City of San Clemente Land Use Plan (LUP) on May 11, 1988, and approved an amendment in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program (LCP). The suggested modifications expired on October 10, 1998. Therefore, the City has no certified LCP and the Commission retains permit issuance jurisdiction.

The City has recently submitted the revised IP for Commission review. The Commission will be considering this item at its October 2000 hearing. However, until such time as the IP is approved and the City's LCP has been fully certified by the Commission, the Chapter Three policies of the Coastal Act are applied as the standard of review. The City's certified LUP will be used as guidance in the current analysis.

Also noted, the City adopted the Pier Bowl Specific Plan on October 13, 1993. The Specific Plan is included in the City's recent IP submittal for Commission review. However, as the Commission has yet to certify the Specific Plan, the Plan will not be applied as guidance.

**C. Scenic and Visual Resources**

**1. Coastal Act Policy**

Section 30251 of the Coastal Act states, in pertinent part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

**2. City of San Clemente Land Use Plan Policies**

Section 305 of the City's certified LUP contains the following Coastal Visual and Historic Resources Goals and Policies.

Policy XII.5 states:

*Preserve the aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, and significant public views.*

Policy XII.9 states:

*Promote the preservation of significant public view corridors to the ocean.*

### **3. Pier Bowl Specific Plan Policies**

The Pier Bowl Specific Plan contains policies and standards for allowable building height and view preservation within the Pier Bowl district. During public workshops for the development of the Specific Plan, the protection of significant public views was identified as an important design issue. Included in the Specific Plan is an identification of significant view corridors, including the Pier and ocean from Avenida Del Mar. Exhibit 9 illustrates four of the six designated view corridors in the Specific Plan. However, as the Commission has yet to certify the City's Specific Plan, these policies will not be used as guidance in the current analysis.

### **4. Analysis of Scenic and Visual Resource Issues**

The applicant is proposing to demolish an existing 500 square foot one-story structure and construct a new 4651 square foot three-four story structure in its place. The project is sited in an area where development is allowed to reach to a maximum average building height of 45 feet above existing grade. (Averages are used to accommodate development on sloping lots.) However, at present, the structures along the south side of Capistrano Lane do not typically exceed a 35-foot maximum height above existing grade. In addition, the majority of development within the surrounding residential neighborhood maintains a consistent building height of approximately 35 feet above existing grade. This pattern of development has created a uniform line of structures along each parallel block within the Pier Bowl area. Each row of residences steps down with the topography toward the ocean (Exhibit 10). However, as proposed, the 44' high duplex (maximum height above Santa Ana Lane) will exceed the heights of adjacent structures, creating an incongruous feature in the current pattern of residential development.

Due to the curvature and topography of the roadway (Monterey Lane) and the pattern of existing development, the proposed project will not obstruct public views of the ocean. However, the project will affect views toward the Pier Bowl Core as seen from the San Clemente Pier. While the view of the Core from the Pier will not be obstructed by the proposed duplex, the structure will create an obtrusive, nonconforming element in the center of existing development, thus affecting the appearance of the Pier Bowl Core when viewed from the Pier. The duplex will appear noticeably out of character with adjacent structures when viewed from the adjacent streets.

As discussed previously, the Commission has imposed building height restrictions on five (5) developments in the subject area to ensure the preservation of coastal views and community character. Two (2) other Commission-approved projects were proposed at a height acceptable to the Commission. Commission actions include the recent approval of a duplex at 108 Capistrano Lane, which was limited to 20' above the centerline of the frontage road [(5-00-111 (Ballard))]. This approval was consistent with the Commission's prior approval at 110 Capistrano Lane [P-2-28-77-312(Schroeder)]. Relevant to the current application, the Commission previously approved the construction of a 3-level duplex at 117 Capistrano Lane, directly north of the subject site, conditioned not to exceed 30' 6" above the centerline of Santa Ana Lane [(P-5-13-77-920 (Ratkelis))]. Also applicable, the Commission limited the height of a structure across the street to 36' above the lower (seaward) frontage road and 23' 6" from the perpendicular cross street [P-12-2-77-2353 (Hartfield)]. The proposed duplex would exceed the height of the adjacent structures and

create a new development precedent if approved at 44' above the centerline of Santa Ana Lane.

Existing development steps down as you travel closer to the shoreline, mimicking the natural topography of the Pier Bowl. If structures are allowed to be constructed at the maximum allowable height (45'), regardless of the current pattern of adjacent development, the visual appearance of the neighborhood will be significantly altered. In order to maintain community character, new development must be sensitive to the existing topography and adjacent rooflines.

Opponents of the proposed development contend that the Commission has set a precedent of limiting height in the Pier Bowl area and should not allow the current structure to exceed previously imposed height restrictions. In addition, there is concern that the proposed duplex will negatively affect the adjacent historic structure. As stated in one letter,

*"...another building at 117 Santa Ana Lane right in front of a historical building, whose height will overwhelm said historical building and it is being built on a small lot, it should be kept at the same height as surrounding buildings and compliment the historical building by not going to extreme height."*

In its approval of Cultural Heritage Permit 99-114, the City determined the proposed project to be "compatible with the scale of other properties in the surrounding neighborhood" and "will maintain views of the abutting historic structure from the public street on Monterey Lane." As such, the City has deemed the proposed duplex to be in conformance with the character of the neighborhood and "not detrimental to the orderly development of the City."

While the Commission recognizes that the proposed duplex meets the City's zoning requirements for height, the project will conflict with the qualitative policies for preservation of scenic and visual resources contained in the City's certified LUP and the Coastal Act. Moreover, as the proposed project may set a precedent for future development within the Pier Bowl High Density residential area, the more protective policy must be enforced. Subsequent applicants may propose to construct structures to the maximum allowable building height (45'), thereby creating a taller pattern of development within the Pier Bowl. These incremental height increases will result in cumulative adverse effects on public views of the Pier and the ocean from public roadways.

## **5. Special Conditions**

To ensure conformance with the scenic and visual resource protection policies of the Coastal Act, the Commission imposes the following special conditions. Special Condition 1 requires the applicant to submit two (2) full sets of project plans, approved by the City of San Clemente, showing that the proposed structure does not exceed a maximum height of 30' 6" above the centerline of the frontage road (Santa Ana Lane). Special Condition 2 requires the applicant to record a deed restriction which notifies the applicant and any future landowners that the structure approved by CDP 5-00-141 shall not exceed a maximum average height of 30' 6" above the centerline of Santa Ana Lane.

## **6. Conclusion**

The proposed project will be incompatible with the character of surrounding development, inconsistent with Section 30251 of the Coastal Act and the City's certified LUP. The Commission has set a precedent of limiting height in the subject area. As such, the Commission's current action is consistent with previous actions.



The proposed duplex does not conform to the existing pattern of development, will result in an incremental adverse impact, and will set a precedent for future development in the subject area. Over time, incremental impacts can have a significant cumulative adverse visual impact.

Based on records research and field visits, Commission staff has confirmed that the majority of existing structures in the surrounding neighborhood have been constructed at comparable heights. In addition, the Commission has set a precedent of limiting height in the subject area. As such, the Commission's current action is consistent with prior actions in the Pier Bowl district. The Commission finds the proposed duplex, as conditioned, to be consistent with Section 30251 of the Coastal Act.

## **D. New Development**

### **1. Coastal Act Policies**

As defined by Section 30106 of the Coastal Act, "development" includes a change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed project involves the demolition of an existing structure and construction of a new duplex.

Section 30250 (a) of the Coastal Act requires that new development be located where it will not have significant adverse affects on coastal resources. It states, in relevant part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

As stated previously, Section 30251 of the Coastal Act requires development to be "visually compatible with the character of surrounding areas." Therefore, new development should be designed in a scale and height consistent with existing structures.

### **2. City of San Clemente Land Use Plan Policies**

Section III. G of the City of San Clemente Certified Land Use Plan (LUP) contains various policies regarding new residential development within the Pier Bowl district. These policies are being used as guidance.

LUP Policy I.5 addresses multi-family residential development as follows:

*Require that multi family residential projects be designed to convey a high level of quality and distinctive neighborhood character in accordance with the Urban Design Element.*

The LUP includes the following policy intent for the Pier Bowl area:

*Plan policy provides for the continuation of the Pier Bowl as a recreational activity area. Coastal recreational uses including retail, restaurant, hotel, bed and breakfast, time share, and residential are allowed. Cultural and recreational activities, including the Ocean Festival, are encouraged. Building design in the Pier Bowl is required to*

*preserve public views, encourage pedestrian activity, to be sensitive to the Pier Bowl's topography and to be a Spanish Colonial Revival Architecture style.*

The LUP also contains Policy VI.5 requiring the preparation of a Specific Plan to guide new development in the Pier Bowl:

*Formulate a Specific Plan incorporating detailed land uses, design and public improvement requirements to ensure consistent development of the Pier Bowl area.*

### **3. Pier Bowl Specific Plan Policies**

The Pier Bowl Specific Plan provides policies, development standards and design guidelines for new development in the subject area. Of particular interest as it relates to the currently proposed development, the Specific Plan requires the design of buildings to be compatible with the surrounding area, particularly adjacent buildings and suggests that in-fill development not contrast greatly with the neighboring structure. However, as noted previously, the Pier Bowl Specific Plan has not been reviewed and certified by the Commission and therefore, cannot be applied in the current analysis.

### **4. Analysis of Development Issues**

The applicant is proposing a new 34'-44' high duplex on a sloping corner lot in the Pier Bowl area of San Clemente. The project is consistent with the height limit set forth in both the City of San Clemente Zoning Ordinance for structures within the Residential High (RH) density district. However, as proposed, the structure will exceed the maximum height of the adjacent duplex fronting Santa Ana Lane by approximately 13' 6". As shown in Exhibit 10, existing development in the subject area steps down with the topography towards the ocean. The adjacent three-story duplex was conditioned by the Commission to a height not to exceed 30' 6" from the centerline of the frontage road (Santa Ana Lane), whereas the proposed three to four story split level structure will be 44' high. The adjacent historic structure on Monterey Lane is two stories in height. As proposed, the duplex will be taller than both the historic structure on Monterey Lane and the adjacent duplex on Santa Ana Lane. Consequently, the proposed project will not follow the established pattern of development and be out of character with surrounding structures.

Section 30250 (a) of the Coastal Act prohibits new development from being sited where it will have an adverse affect on coastal resources. As scenic and visual qualities are considered a public resource, the proposed development would have an adverse affect on a coastal resource. Existing coastal views from public roadways within Pier Bowl area will be incrementally obstructed as structures are allowed to be built to the 45' height limit. Over time, this will have a cumulative and significant adverse impact.

The Commission has previously imposed building height restrictions in the subject area, thereby setting a development precedent, as reviewed on pages 4-5 of the current report. Existing structures along Capistrano Lane and Santa Ana Lane are limited to a maximum height that will maintain public views of the coastline and preserve the character of the surrounding neighborhood. The proposed project exceeds the height of adjacent structures and will create a new development precedent if approved at 44' above Santa Ana Lane.

### **5. Conclusion**

The Commission finds that the development, as proposed, will have an incremental adverse effect, which sets a precedent that will result in a significant cumulative adverse effect on public coastal views and the character of development in the Pier Bowl district. However,

as conditioned to maintain a building height consistent with the adjacent structure, the proposed development is consistent with Sections 30250 and 30251 of the Coastal Act.

**E. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The Commission is scheduled to hear this item at its October 2000 meeting. Therefore, the Commission retains coastal development permit jurisdiction in the City of San Clemente.

As stated previously, the City has recently submitted the revised IP for Commission review. The Pier Bowl Specific Plan is included in the City's submittal. The Specific Plan includes policies that are intended to be consistent with the Chapter Three policies of the Coastal Act. Consistency with the scenic and visual resource policies of the Coastal Act must be ensured prior to LCP certification.

While the IP is still under consideration, the Commission can not take any action that may prejudice the City's ability to prepare a certified LCP. The proposed development is inconsistent with the visual resource policies of the Coastal Act. In addition, the proposed development is inconsistent with the policies contained in the City's certified Land Use Plan regarding preservation of public views of the coastline. Therefore, approval of the proposed development will prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**F. Consistency with the California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the scenic and visual resources and new development policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) submittal of revised project plans; and 2); recordation of a deed restriction limiting allowable building height, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.